



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

May 29, 1985

The Honorable Carolyn Walker
State Capitol - House Wing
1700 West Washington
Phoenix, Arizona 85007

RE: I85-074 (R85-059)

Dear Representative Walker:

You have asked whether Arizona residents otherwise eligible under A.R.S. § 43-1072 for an earned credit for property taxes are ineligible because the housing is owned by the United States Department of Housing and Urban Development (HUD), which does not pay property tax, but may make contributions in lieu of property tax.

A.R.S. § 43-1072.A defines those residents eligible for a credit against taxes imposed by the chapter. A.R.S. § 43-1072.B provides the formula for determining the amount of such credits. That subsection, in pertinent part, provides "the credit allowed under this section is the amount of property taxes actually paid during the taxable year [or an amount computed by reference to subsequent tables], whichever is less."

The legislature has tied the credit against income taxes for property taxes accrued or rent to the property taxes actually paid by the owner since if no property taxes are paid there is no amount to be credited under A.R.S. § 43-1072.B. If the property tax actually paid is zero then the zero amount would be less than the amounts set forth in the tables in A.R.S. § 43-1072.B.1 and 2 and the credit would be zero.

The Honorable Carolyn Walker
May 29, 1985
Page 2

"Property taxes" are defined in A.R.S. § 43-1072.H.7 as follows:

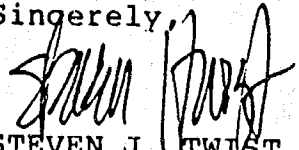
'Property taxes' means property taxes levied on a claimant's homestead in this state in any taxable year. For purposes of this paragraph, property taxes are 'levied' when the tax roll is delivered to the county treasurer for collection. If a claimant and his household own their homestead part of the taxable year and rent it or different homesteads for the rest of the same year, provided property taxes were levied on the homestead which was owned by the claimant and his household, such claimant shall be eligible for a credit pursuant to this section.

"Homestead" means the principal dwelling, whether owned or rented by the claimant. A.R.S. § 43-1072.H.3. HUD has not paid "property taxes" as defined in A.R.S. § 43-1072.H.7. Article IX, § 2 of the Arizona Constitution exempts from property taxation all federal, state, county and municipal property. Therefore, property taxes cannot be levied upon HUD.

A statute providing for a deduction or a credit must be strictly construed and items not within the terms of the statute cannot be allowed to qualify for the deduction or credit. Arizona Department of Revenue v. Transamerica Title, 124 Ariz. 417, 604 P.2d 1128 (1979).

If a landlord actually does not pay "property taxes" as defined in A.R.S. § 43-1072.H.7, no credit is available to the renter. Contributions made in lieu of property taxes are not "property taxes" as defined in A.R.S. § 43-1072. Therefore, the renters in the HUD housing which you describe are not eligible for the earned credit for property taxes under § 43-1072.

Sincerely,


STEVEN J. TWIST
Chief Assistant
Attorney General

SJT:ghb:pr